

# 3 U.S. judges kill state congressional districts

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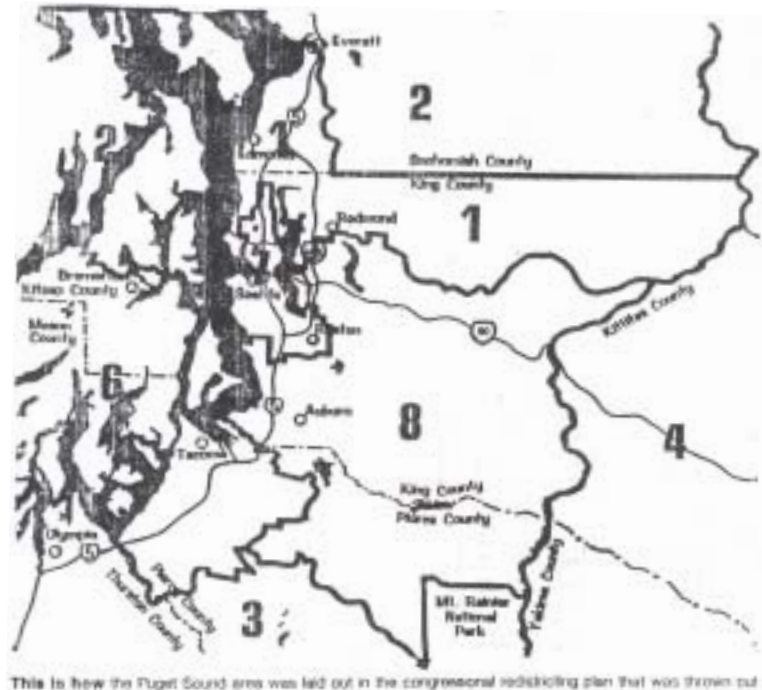
A three-judge federal panel tossed the volatile issue of congressional redistricting back to the Washington Legislature yesterday by declaring the state's new congressional boundaries invalid.

The bombshell ruling didn't tamper with congressional elections held Nov. 2 under the now invalidated redistricting plan.

But the judges said population variances among the state's eight congressional districts are excessive. The Legislature must redraw the boundaries within 90 days after its 1983 session begins Jan. 10, the judges said.

The unanimous decision was a victory for Everett residents who sued the state because reapportionment shifted their city from the 2<sup>nd</sup> District to the 1<sup>st</sup> District. But the federal panel gave the Legislature free rein to make any changes that would meet constitutional requirements. It didn't order Everett placed back into the 2<sup>nd</sup> District.

The decision comes as both houses of the Legislature are passing from Republican to Democratic control, and as the lawmakers gird for what many expect to be the most horrendous budget problems ever to face the state.



This is how the Puget Sound area was laid out in the congressional redistricting plan that was thrown out.

House Speaker-elect Wayne Ehlers, D-Parkland, and Senate Majority Leader-elect R. Ted Bottiger, D-Graham, both expressed hope that the redistricting plan can be modified quickly and easily.

If not, they said, the best tack may be for the Legislature to turn the politically charged task over to an independent redistricting commission to develop a reapportionment plan and submit it to the lawmakers for adoption.

"This (ruling) just proves that the Legislature shouldn't be involved in redistricting, that's all," commented Ehlers.

The new House speaker said he and Bottiger decided before the court ruled to propose to their caucuses that the Legislature submit a constitutional amendment to the voters this fall to establish an independent redistricting commission. The newly invalidated redistricting law established a redistricting commission but gave the Legislature final approval of reapportionment plans.

Bottiger said partisan wrangling over redistricting in the 1983 session might be unavoidable. "Everyone's going to want to make

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a little correction for his own district," he said.

#### **High court next**

Gov. John Spellman and Attorney General Ken Eikenberry were out of town and couldn't be reached for comment yesterday. Deputy Attorney General Phillip Austin said Spellman and Eikenberry will discuss the ruling before a decision is made on whether to appeal it.

An appeal of the ruling panel would be filed directly with the U.S. Supreme Court. The decision was handed down in Tacoma by Judges Walter McGovern and Jack Tanner—both federal district judges—and Judge Otto Skopil Jr. of the U.S. 9<sup>th</sup> Circuit Court of Appeals.

Bottiger vowed not to let the ruling bog down the Legislature with redistricting, the issue that has periodically preoccupied it over the last two years of Republican control.

The Senate leader said one option for the legislators at the end of the court-ordered 90-day period would be simply to "go home. Let the court do it (redistrict the state)."

By declaring that they "will retain jurisdiction to supervise the

Legislature's actions," the judges implied that they might impose a congressional redistricting scheme on the state if the lawmakers fail to adopt a suitable plan within the time allotted.

A federal tribunal did reapportion the congressional boundaries in 1972 under a plan developed by a court appointed geographer after the Legislature was unable to agree on redistricting.

After the 1980 census, the 1981 session of the Legislature adopted a congressional redistricting plan later vetoed by Spellman at the urging of the state's entire congressional delegation. The Legislature then adopted a new version last February and Spellman signed it.

The judges ruled yesterday, however, that the 1.38 percent variance in population between the least populous and most populous districts—the 4<sup>th</sup> and the newly created 8<sup>th</sup>—was excessive, couldn't be justified by the state and therefore violated the U.S. Constitution.

"I'm elated," said Ralph Mackey, an Everett businessman and one of several Everett citizens who

launched the bipartisan court challenge. They acted after the Legislature earlier this year rejected pleas by community leaders to leave Everett in the 2<sup>nd</sup> District.

Everett officials complained that they have always had more in common with the rest of the 2<sup>nd</sup> District, which includes the counties to the north, than they have with the North King County suburbs that make up most of the 1<sup>st</sup> District.

"I would think the Legislature would now act in good faith to try to keep communities of interest together," said Fredric C. Tausend, a Seattle lawyer and dean of the University of Puget Sound law school. He represented the plaintiffs in the suit.

"I was pleased because I thought the congressional redistricting job was a very sloppy one in the first place," added Rep. Al Swift. The 2<sup>nd</sup> District Democratic congressman from Bellingham probably disliked the redistricting plan more than any other member of the state's congressional delegation, mainly because he hadn't wanted to lose Everett to the 1<sup>st</sup> District.

After the ruling was handed down yesterday, "most of the delegation got together on the (House) floor, and our feeling is that presumably most of this (redistricting) could be done without going back to ground zero and making radical changes in the plan," Swift said in a telephone interview from Washington D.C.

The federal court panel said the 1.38 percent population variance from one district to another was unnecessarily great. It noted that the 1981 redistricting plan vetoed by Spellman, as well as a redistricting proposal developed by University of Washington geography professor Richard Morrill, both had smaller variances and thereby proved that such variances could be narrower.

The panel didn't expressly uphold the validity of the congressional elections conducted this fall under the redistricting plan it threw out. But since the judges heard the lawsuit in August and didn't hand down their decision until after the general election, Tausend said he assumed they intended "not to interfere with the (1982) elections, but to look ahead."